

Docket: TU9-97-6-US2

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**RECEIVED  
CENTRAL FAX CENTER

SEP 09 2005

INVENTORS: Basham et al.

SERIAL NO.: 09/853,557

GROUP ART UNIT: 2182

FILED: 05/10/2001

EXAMINER: T. R. PEYTON

FOR: DUAL PURPOSE MEDIA DRIVE PROVIDING CONTROL PATH TO SHARED  
ROBOTIC DEVICE IN AUTOMATED DATA STORAGE LIBRARYCOMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE  
PATENTING REJECTION OVER A PRIOR PATENT**

Dear Sir:

The owner, INTERNATIONAL BUSINESS MACHINES CORPORATION, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,434,020. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the corporation. By virtue of the attached associate power of attorney, the undersigned is an attorney of record.

TU9-97-6-US2

- 1 -

S/N 09/853,557

09/12/2005 NNGUYEN1 00000043 090449 09853557

02 FC:1814 130.00 DA

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated 9/9/2005

Robert M. Sullivan

Robert M. Sullivan (Reg. #39,391)  
Attorney for Applicants  
Telephone (520) 799-2550  
IBM Corporation  
Intellectual Property Law  
9000 S. Rita Road (90A/9032-1)  
Tucson, Arizona 85744

TU9-97-6-US2

- 2 -

S/N 09/853,557